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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,394	03/06/2001	Paul E. Newson	MSFT-0237/147839.2	3296

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT PAPER NUMBER

2145

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/800,394

Applicant(s)

NEWSON ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/11/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 9-21 and 29-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 22-28 and 64-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20010405</u> . | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-8, 22-28, and 64-69 in the reply filed on 9/11/2006 is acknowledged.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 8 and 64-69 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant broadened the definition of "computer readable media" on pages 7-8 in the specification to include communication media, which constitutes non-statutory subject matter. Computer readable media must be limited to storage media that are tangibly embodied. See Annex IV of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, published in the Official Gazette on November 22, 2005.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3, 8, 22, 25-26 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The term "according to said first session topology" in claims 1 and 8 is a relative term which renders the claim indefinite. The term "according to said first session topology" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
7. Claim 2 recites the limitation "said device" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2145

8. Claim 3 recites the limitation "said data package" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

9. The term "being operative or non-operative according to a comparison of said second identifier with said first identifier" in claim 22 is a relative term which renders the claim indefinite. The term "being operative or non-operative according to a comparison of said second identifier with said first identifier" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The Examiner is unclear when the module would be "operative or non-operative" based upon this "comparison" since no relation was given between the comparison and the operative nature of the module.

10. The term "lowest value" in claim 25 is a relative term which renders the claim indefinite. The term "lowest value" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

11. Claim 26 recites the limitation "said first module" in claim 22. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 28 recites the limitation "fourth module" in claim 22. There is insufficient antecedent basis for this limitation in the claim. Applicant never stated a "first module", "second module", or "third module" in claim 22.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2145

14. Claims 1-8, 22-28, and 64-69 are rejected under 35 U.S.C. 102(e) as being anticipated by DeSimone et al. (US 6,138,144).

15. In regard to claims 1 and 8, DeSimone disclosed:

*joining a session having a second session topology which defines a second set of one or more of said second devices to which data may be directly addressed from said first device, said destination device being a member of said second set; [column 5, lines 5-50]*

*creating a first data package which contains: (a) said first data; and (b) a header;*  
[column 5, lines 51-67. The transmission of video data inherently includes first data and a header. The header gives the address of where the data is to be sent.]

*addressing said first data package to said destination device; [Inherent to data transmission in either an IP or ATM network]*

*sending said first data package to said destination device according to said first session topology. [column 6, lines 1-25]*

16. In regard to claims 3 and 65, DeSimone disclosed:

*appending a header to said data package which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone, regardless of whether using IP or ATM] and*

*sending said data package to a host device different from said destination device, said host device being a member of said first set. [column 5, lines 30-43]*

17. In regard to claims 4 and 66, DeSimone disclosed:

*said destination device is a member of said first set. [column 5, lines 51-57]*

18. In regard to claims 5 and 67, DeSimone disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone] and*

Art Unit: 2145

*said host device sending to said destination device a mixed stream comprising said first data and said second data. [column 6, lines 2-16. The addition of a video multicast to an ongoing conference comprised a mixed stream of first data and second data.]*

19. In regard to claims 6 and 68, DeSimone disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone] and*

*said host device sending said first and second data packages separately to said destination device. [column 6, lines 2-16]*

20. In regard to claims 7 and 69, DeSimone disclosed:

*sending said first data package using non-guaranteed delivery. [Video transmission in IP is done via UDP; which is a non-guaranteed delivery method.]*

21. In regard to claim 22, DeSimone disclosed:

*a communication port which transmits and receives information over said network;*

*a processor;*

*a memory communicatively coupled to said processor, said memory having a location in which a first identifier is storable, said memory storing at least:*

*a first program module which sends information to a first node in said network through said communication port, and which receives information from said first node through said communication port, said first node being a member of a session;*

*a second program module which generates a second identifier based on a function; and*

*a third program module which adds a second node in said network to said session, said third program module being operative or non-operative according to a comparison of said second identifier with said first identifier.*

Art Unit: 2145

These broad limitations are met by the limitations of claim 1. This is the joinder of a session by a device, and addressing data directly to the second device from the first device, as taught in DeSimone, column 5, lines 5-50.

22. In regard to claim 23, DeSimone disclosed:

*an equality comparison between said second identifier and said first identifier.*

Addressing of data in DeSimone. Inherent to any ATM network. It is impossible to transmit data in an ATM network if it is not addressed. Part of data routing is examining the address to see if it is going to the right destination, which is comparing two identifiers.

23. In regard to claim 24, DeSimone disclosed:

*each node in said session is associated with a host order value, said first identifier being a one of said host order values, wherein said memory further stores a table indicative of the respective host order values associated with each node in said session, and wherein said function is based on an ordering among said host order values. [DeSimone, column 5, lines 24-50]*

24. In regard to claim 25, DeSimone disclosed:

*identifying the lowest value among said host order values. [DeSimone, column 5, lines 24-50]*

25. In regard to claim 27, DeSimone disclosed:

*a fourth program module which determines that first data received by said first program module is addressed to a third node and which relays said first data to said third node.*

Addressing of data in DeSimone. Inherent to any ATM network. It is impossible to transmit data in an ATM network if it is not addressed.

26. In regard to claim 28, DeSimone disclosed:

*a fourth module which maintains a name table of nodes in said session. [DeSimone, column 5, lines 51-63]*

Art Unit: 2145

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claims 2, 26 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimone in view of Applicant's admitted prior art.

29. DeSimone taught the transmission of multimedia data over an ATM network. DeSimone further taught conferencing with audio was well known in the art at the time of DeSimone's invention. DeSimone, column 2, line 37. DeSimone failed to disclose capturing audio with a microphone.

30. Applicant's background further taught voice conferencing was well known in the prior art. Specification, pages 1-2. Applicant's background failed to disclose capturing audio with a microphone.

31. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a microphone with DeSimone to capture audio data for voice or videoconferencing. One would have been motivated to do so because in order to transmit voice data in a videoconference, one must capture said voice data using a microphone.

### ***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aggarwal et al. US 6,154,463

Salesky et al. US 6,343,313 B1

Gong, Fengmin. "Multipoint Audio and Video Control For Packet-Based Multimedia Conferencing." Proceedings of the Second ACM International Conference on Multimedia. San Francisco, CA. October 1994. pp. 425-32. ACM Press.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.



Art Unit: 2145

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145